

PATENT COOPERATION TREATY

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INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 576391-2002	FOR FURTHER ACTION		See Form PCT/PEA/416
International application No. PCT/B2004/001539	International filing date (day/month/year) 16.04.2004		Priority date (day/month/year) 18.04.2003
International Patent Classification (IPC) or national classification and IPC A62C3/06			
Applicant FUSACO IP, SARL et Al.			

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 5 sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising:
 - a. *sent to the applicant and to the International Bureau* a total of sheets, as follows:
 - sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).
 - sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.
 - b. *(sent to the International Bureau only)* a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).

4. This report contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

Date of submission of the demand 17.11.2004	Date of completion of this report 17.03.2005
Name and mailing address of the International preliminary examining authority:  European Patent Office - P.B. 5818 Patentlaan 2 NL-2280 HV Rijswijk - Pays Bas Tel. +31 70 340 - 2040 Tx: 31 651 epo nl Fax: +31 70 340 - 3016	Authorized Officer Triantaphillou, P Telephone No. +31 70 340-2785



**INTERNATIONAL PRELIMINARY REPORT
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International application No.
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Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
 - This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:
 - international search (under Rules 12.3 and 23.1(b))
 - publication of the international application (under Rule 12.4)
 - international preliminary examination (under Rules 55.2 and/or 55.3)
2. With regard to the **elements*** of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):

Description, Pages

1-10 as originally filed

Claims, Numbers

1-15 as originally filed

Drawings, Sheets

1/7-7// as originally filed

a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. The amendments have resulted in the cancellation of:
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):
4. This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
 - the description, pages
 - the claims, Nos.
 - the drawings, sheets/figs
 - the sequence listing (*specify*):
 - any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

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Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	
	No: Claims	1-15
Inventive step (IS)	Yes: Claims	
	No: Claims	1-15
Industrial applicability (IA)	Yes: Claims	1-15
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

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Re Item V.

- 1 The following document is referred to in this communication:
D1: US-A-5 000 336 (GASS HELMUT G) 19 March 1991 (1991-03-19)
D2: WO 00/71798 A (FENTON RONALD L) 30 November 2000 (2000-11-30)
D3: US-A-4 925 053 (BRANDT ROBERT ET AL) 15 May 1990 (1990-05-15)
- 2.1 Document D1 discloses an explosion inhibiting article of manufacture comprising an apertured sheet material, which may be used in sheets or formed to cylindrical or spheroidal shapes, apertured with rows of polygonal openings of dissimilar size and/or shape, the physical properties being (i) a consequence of the manufacturing process and a requirement of the application, (ii) the thermal property of the usual conductive metals and finally the compressive yield of 10% a desirable result to be achieved.
- 2.2 Documents D2 and D3 also disclose these features notably for achieving the same result ie. inhibiting settlement of the filler material.
- 2.3 **INDEPENDENT CLAIMS 1, 5, 9 & 13-15**
As can be seen from the above, document D1 discloses in combination all the features defined in the independent claims 1, 5, 9 & 13-15. Hence the subject-matter of these claims is not new (Article 33(2) PCT).
- 2.4 **DEPENDENT CLAIMS 2-4, 6-8 & 10-12**
Dependent claims 2-4 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of novelty and/or inventive step (Article 33(2) and (3) PCT).

Re Item VIII.

- 3.1 Although claims 1 & 13, 5 & 14 and 9 and 15 respectively have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT.

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- 3.2 Claims 4, 8 & 12 do not meet the requirements of Article 6 PCT in that the matter for which protection is sought is not clearly defined. The claims attempt to define the subject-matter in terms of the result to be achieved, which merely amounts to a statement of the underlying problem, without providing the technical features necessary for achieving this result.
- 3.3 The vague and imprecise statement in the description on page 6, line 15 describing "irregular apertures", appearing also in independent claims 1, 5 & 9, implies that the subject-matter for which protection is sought may be different to that defined by the claims, thereby resulting in lack of clarity (Article 6 PCT) when used to interpret them, since the term "irregular" has a different standard meaning in geometry.
- 3.4 The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).
- 3.5 Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in the documents D1-D3 is not mentioned in the description, nor are (any of) these documents identified therein.
- 3.6 The independent claims is not in the two-part form in accordance with Rule 6.3(b) PCT, which in the present case would be appropriate, with those features known in combination from the prior art being placed in the preamble (Rule 6.3(b)(i) PCT) and with the remaining features being included in the characterising part (Rule 6.3(b)(ii) PCT).
